

Docket No: 00-0555
Bench Date: 7/25/01
Deadline: N/A

MEMORANDUM

TO: The Commission

FROM: Eve Moran and Leslie Haynes, Administrative Law Judges

DATE: July 23, 2001

SUBJECT: Illinois Commerce Commission
On Its Own Motion

Establishing rules for reciprocal compensation for internet service provider-bound traffic.

RECOMMENDATION: Enter Order dismissing proceeding without prejudice.

An Initiating Order entered by the Commission on August 17, 2000. opened this rulemaking proceeding. The scope of the instant docket was settled in an Order issued on March 31, 2001.

On April 27, 2001, however, an order entered by the Federal Communications Commission ("FCC") pre-empted state authority over the subject matter of this proceeding. (In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, Order on Remand and Report and Order, CC Dockets 96-98 and 99-68, released April 27, 2001) ("ISP Intercarrier Compensation Order").

Comments filed by parties to this proceeding all agree that this matter should be dismissed for lack of subject matter jurisdiction and, on June 25, 2001, Staff filed a Motion to Dismiss. Only Illinois Bell Telephone Company ("Ameritech") responded to Staff's motion and only to raise its concern that the dismissal order not preclude its right to seek certain remedies that the Focal Arbitration Order (Docket 00-0027) tied to this proceeding. In a subsequent Reply, Focal indicated that it would not oppose a dismissal without prejudice, but would object to any discussion of the Docket 00-0027 Order in this proceeding.

In our view, the dismissal that we recommend be granted for this generic rulemaking proceeding, does not reach, discuss or dispose of any questions arising from, or related to, other dockets. Accordingly, we recommend entry of the attached Order.

EM/LH:jt